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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,374

04/01/2004

Christoph Becke

2001P14043WOUS

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09/20/2006

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,374

Applicant(s)

BECKE ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12, 14 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12, 14 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 18, 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 12, the phrase "said storage compartment has at least one sidewall with a concave shape..." is deemed to be misdescriptive of the embodiments since the "storage compartment" [defined as element 5] does not appear to identify a concave shaped sidewall as claimed. However, it appears that the "compartment divider" [defined as element 8"] which is a separate structure, does fulfill the limitation (via walls 11).

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-12, 14 & 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over German publication 9014463 [DE`463] in view of Carter [U.S. Patent No. 3,990,617]. DE`463 (figures 1-4) teaches of a storage compartment (fig. 2) for a refrigerator door, the storage compartment comprising: a box shaped body (20) having a longitudinal wall (24) and a given depth (viewed as the top to bottom dimension) with a slot (25) extending vertically within the longitudinal wall at least along a portion thereof; and a compartment divider (30) having a rider (viewed as portion 27 of 22) extending downwardly spaced from a wall thereof located adjacent to the slot for being received within the slot for holding the compartment divider attached within the box shaped body, the compartment divider defining a chamber (fig. 3) for holding small items and extending over more than half of the given depth (fig. 3), wherein the compartment divider is defined by four connected walls (fig. 2) which do not extend to a bottom of the box shaped body (fig. 2) to define the chamber within the connected walls for holding items therein. The storage compartment divider extends substantially entirely over the given depth (fig. 3), wherein an extent of the compartment divider in a direction of the given depth of the box-shaped body is greater than in a width direction (viewed as the front to rear dimension – fig. 2), wherein the slot and rider form a “friction lock” (viewed as a frictional fit) between the rider and walls of the box shaped body defining the slot as readily apparent to the

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examiner, in as much as no structural elements are defined. As to claim 14, the depth dimension may be viewed as the distance between side walls 26 as noted in figs 1-2, wherein the divider now has a height (top to bottom of fig. 3) which is less than the height of the box shaped body. DE`463 teaches applicant's inventive claimed structure as disclosed above, but does not show the chamber of the divider as having an open bottom. Carter (figures 1-4) is cited as an evidence reference to show that it was known to utilize a four walled structure (12) that is attachable to an adjacent structure via a rider (26) and having an open bottom for the purpose of retaining an item. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the divider of DE`463 so as to utilize an open bottom as taught by Carter because this arrangement would enhance the retaining capacity of DE`463's divider when large/long items are desired to be held within the chamber since the open bottom would afford additional storage capacity in order to retain the larger or longer items. As to claim 12, the "storage compartment" has concave shaped corners on each of the sidewalls as best understood by the examiner.

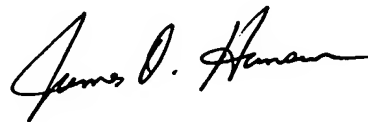
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
September 18, 2006